

CHAPTER 573—S. F. No. 53

An act relating to small loans; amending Minnesota Statutes 1957, Sections 56.01, 56.02, 56.04, 56.06, 56.08, 56.09, 56.12, 56.13, 56.14, 56.15, 56.16 and 56.18; and repealing Section 56.03.

Be it enacted by the Legislature of the State of Minnesota :

Section 1. Minnesota Statutes 1957, Section 56.01, is amended to read :

56.01 Necessity of license. No person, co-partnership, association, or corporation shall engage in the business of making loans of money, credit, goods, or things in action, in the amount or of the value of \$600 or less, and charge, contract for, or receive on any such loan a greater rate of interest, discount, or consideration therefor than the lender would be permitted by law to charge if he were not a licensee hereunder, except as authorized by this chapter and without first obtaining a license from the commissioner of banks, hereinafter called the commissioner. The word "person", as used in this chapter, includes individuals, copartnerships, associations, and corporations, unless the context requires a different meaning.

Sec. 2. Minnesota Statutes 1957, Section 56.02, is amended to read :

56.02 Application fee. Application for license shall be in writing, under oath, and in the form prescribed by the commissioner, and contain the name and the address, both of the residence and place of business, of the applicant and, if the applicant is a copartnership or association, of every member thereof, and if a corporation, of each officer and director thereof; also the county and municipality, with street and number, if any, where the business is to be conducted, and such further information as the commissioner may require. The applicant at the time of making application, shall pay to the commissioner the sum of \$100 as a fee for investigating the application, and the additional sum of \$100 as an annual license fee for a period terminating on the last day of the current calendar year; provided, that if the application is filed after June 30th in any year the additional sum shall be only \$50. In addition to the annual license fee, every licensee hereunder shall pay to the commissioner the actual costs of each examination, as provided for in section 56.10. All moneys collected by the commissioner under this chapter shall be

turned over by him to the state treasurer and credited by the treasurer to the general revenue fund of the state.

Every applicant shall also prove, in form satisfactory to the commissioner, that he or it has available for the operation of the business at the location specified in the application, liquid assets of at least \$25,000.

Sec. 3. Minnesota Statutes 1957, Section 56.04, is amended to read:

56.04 Investigation; issuance of license; denial. Upon the filing of the application and payment of these fees, the commissioner shall investigate the facts, and if he shall find (1) that the financial responsibility, experience, character, and general fitness of the applicant, and of the members thereof if the applicant be a copartnership or association, and of the officers and directors thereof if the applicant be a corporation, are such as to command the confidence of the community and to warrant belief that the business will be operated honestly, fairly, and efficiently within the purposes of this chapter, and (2) that allowing the applicant to engage in business will promote the convenience and advantage of the community in which the business of the applicant is to be conducted, and (3) that the applicant has available for the operation of the business, at the specified location, liquid assets of at least \$25,000 (the foregoing facts being conditions precedent to the issuance of a license under this chapter), he shall thereupon issue and deliver a license to the applicant to make loans, in accordance with the provisions of this chapter, at the location specified in the application, which license shall remain in full force and effect until it is surrendered by the licensee, or revoked and suspended, as hereinafter provided; if the commissioner shall not so find, he shall not issue a license and he shall notify the applicant of the denial and return to the applicant the sum paid by the applicant as a license fee, retaining the \$100 investigation fee to cover the costs of investigating the application. The commissioner shall approve or deny every application for license hereunder within 60 days from the filing thereof with the fees.

If the application is denied, the commissioner shall, within 20 days thereafter, file in his office a written decision and findings with respect thereto containing the evidence and the reasons supporting the denial, and forthwith serve upon the applicant a copy thereof.

Sec. 4. Minnesota Statutes 1957, Section 56.06, is amended to read:

56.06 Available assets. Every licensee shall maintain, at all times, assets of at least \$25,000 either in liquid form available for the operation of, or actually used in, the conduct of the business at the location specified in the license.

Sec. 5. Minnesota Statutes 1957, Section 56.08, is amended to read:

56.08 Annual license fee. Every licensee shall, on or before the 20th day of each December, pay to the commissioner the sum of \$100 as an annual license fee for the next succeeding calendar year.

Sec. 6. Minnesota Statutes 1957, Section 56.09, is amended to read:

56.09 Revocation of license. The commissioner shall, upon ten days' notice to the licensee stating the contemplated action and in general the grounds therefor, and upon reasonable opportunity to be heard, revoke any license issued hereunder if he shall find that:

(1) The licensee has failed to pay the annual license fee required under the provisions of this chapter, or to comply with any demand, ruling, or requirement of the commissioner lawfully made pursuant to and within the authority of this chapter; or that

(2) The licensee has violated any provision of this chapter or any rule or regulation lawfully made by the commissioner under and within the authority of this chapter; or that

(3) Any fact or condition exists which, if it had existed at the time of the original application for the license, clearly would have warranted the commissioner in refusing originally to issue the license.

The commissioner may, upon three days' notice and a hearing, suspend any license for a period not exceeding 30 days, pending investigation.

The commissioner may revoke or suspend only the particular license with respect to which grounds for revocation or suspension may occur or exist, or, if he shall find that the grounds for revocation or suspension are of general application to all offices, or to more than one office, operated by the licensee, he shall revoke or suspend all of the licenses issued to the licensee or the licenses as the grounds apply to, as the case may be.

Any licensee may surrender any license by delivering to the commissioner written notice that he thereby surrenders the license, but the surrender shall not affect the licensee's civil or criminal liability for acts committed prior to the surrender.

No revocation or suspension or surrender of any license shall impair or affect the obligation of any preexisting lawful contract between the licensee and any borrower.

Every license issued hereunder shall remain in force and effect until the same shall have been surrendered, revoked, or suspended in accordance with the provisions of this chapter, but the commissioner shall have authority, on his own initiative, to reinstate suspended licenses or to issue new licenses to a licensee whose license or licenses shall have been revoked if no fact or condition then exists which clearly would have warranted the commissioner in refusing originally to issue the license under this chapter.

When the commissioner shall revoke or suspend a license issued pursuant to this chapter, he shall forthwith file in his office a written order to that effect and findings with respect thereto containing the evidence and the reasons supporting the revocation or suspension, and forthwith serve upon the licensee a copy thereof.

Sec. 7. Minnesota Statutes 1957, Section 56.12, is amended to read:

56.12 Advertising; taking of security; place of business. No licensee or other person shall advertise, print, display, publish, distribute, or broadcast, or cause or permit to be advertised, printed, displayed, published, distributed, or broadcast, in any manner any statement or representation with regard to the rates, terms, or conditions for the lending of money, credit, goods, or things in action, in the amount or of the value of \$600 or less, at a greater rate of charge than lenders not licensed hereunder would be permitted by law to make, which is false, misleading, or deceptive. The commissioner may order any licensee to desist from any conduct which he shall find to be a violation of the foregoing provisions.

The commissioner may require that rates of charge, if stated by a licensee, be stated fully and clearly in such manner as he may deem necessary to prevent misunderstanding thereof by prospective borrowers.

No licensee shall take a lien upon real estate as security

for any loan made under this chapter, except such lien as is created by law upon the recording of a judgment.

No licensee shall conduct the business of making loans under this chapter within any office, room, or place of business in which any other business is solicited or engaged in, or in association or conjunction therewith, except as may be authorized, in writing, by the commissioner upon his finding that the character of the other business is such that the granting of such authority would not facilitate evasions of this chapter or of the rules and regulations lawfully made hereunder.

No licensee shall transact the business or make any loan provided for by his chapter under any other name or at any other place of business than that named in the license. No licensee shall take any confession of judgment or any power of attorney. No licensee shall take any note, promise to pay, or security that does not accurately disclose the actual amount of the loan, the time for which it is made, and the agreed rate of charge, nor any instrument in which blanks are left to be filled in after execution.

Sec. 8. Minnesota Statutes 1957, Section 56.13, is amended to read:

56.13 Limitation of loans, interest. *Subdivision 1.* Every licensee hereunder may lend any sum of money not to exceed \$600 in amount, and may contract for and receive thereon a charge at a rate not exceeding *two and three-quarters percent per month on that part of the unpaid principal balance of any loan not exceeding \$300 and one and one-half percent per month on any remainder of such unpaid principal balance; provided, however, that not more than six months of accrued charges on the unpaid principal balance shall be included in any judgment entered on any loan made hereunder.*

Subd. 2. No licensee shall induce or permit any borrower to split up or divide any loan. No licensee shall induce or permit any person, nor any husband and wife, jointly or severally, to become obligated, directly or contingently, or both, under more than one contract of loan at the same time for the purpose or with the result of obtaining a higher rate of charge than would otherwise be permitted by this section.

Subd. 3. No charges on loans made under this chapter shall be paid or received in advance, or *deducted or discounted from the principal of the loan.* Charges on loans made under this chapter, *except as otherwise provided in subdivision 4 of this section,* (1) shall be computed and paid only as a percentage per month of the unpaid principal balances or portions

thereof, (2) shall be so expressed in every obligation signed by the borrower, and (3) shall not be compounded; provided that, if part or all of the consideration for a loan contract is the unpaid principal balance of a prior loan, than the principal amount payable under such loan contract may include any unpaid charges on the prior loan which have accrued within two months before the making of such loan contract. For the purpose of computations a month shall be considered a calendar month and where a fraction of a month is involved a day shall be considered one-thirtieth of a month.

Subd. 4. In lieu of computing and collecting charges on actual unpaid principal balances or portions thereof, charges may be precomputed at the agreed monthly rate on scheduled unpaid principal balances of loans contracted to be repaid in substantially equal and consecutive monthly instalments of principal and charges combined. The first instalment payment may be more or less than succeeding payments to adjust for charges if the first instalment period is more or less than one month. Payments on each such precomputed loan shall be applied to the total of principal and charges combined until the contract is fully paid, subject to a refund or credit of unearned charges and to default and extension charges as follows:

(a) The refund or credit to the borrower for prepayment in full by cash, a new loan, renewal, refinancing or otherwise one month or more before the final instalment date shall be that proportion of the total precomputed charges (after any adjustment for a first instalment period of more or less than one month) which the sum of the monthly balances originally scheduled to follow the instalment date nearest the date of prepayment in full bears to the sum of all originally scheduled monthly balances. If prepayment occurs at least fifteen days before the first instalment date, the refund or credit to the borrower shall be the total precomputed charges less the amount of charges computed at the agreed rates on the actual unpaid principal balances of the contract for the time actually outstanding.

(b) For each full instalment one or more full months past due according to the original terms of the contract, whether by reason of default or extension agreement and if the contract so provides, the licensee may receive a charge not exceeding the amount of refund or credit which would be required if the loan were prepaid in full on the next to the last instalment date multiplied by the number of full months such

instalment is so past due. Such charges may be collected as they accrue or at any time thereafter.

(c) *If two or more full instalments are in default for one full month or more at any instalment date and if the contract so provides, the licensee may reduce the contract balance by the refund or credit which would be required for prepayment in full on such instalment date and thereafter receive charges at the agreed rate computed on actual unpaid principal balances of the contract for the time actually outstanding. Charges so collected shall be in lieu of any default or extension charges which otherwise would accrue on the contract after such instalment date.*

Subd. 5. In addition to the charges herein provided for, no further or other amount shall be, directly or indirectly, charged, contracted for, or received. If any amount other than or in excess of the charge permitted by this chapter is charged, contracted for, or received, the contract of loan shall be void and the licensee shall have no right to collect or receive any principal, charges, or recompense whatsoever.

Sec. 9. Minnesota Statutes 1957, Section 56.14, is amended to read:

56.14 Duties of licensee. Every licensee shall:

Deliver to the borrower (or if there are two or more borrowers to one of them) at the time any loan is made a statement (upon which there shall be printed a copy of subdivisions 1 and 5 of section 56.13), showing in clear and distinct terms the amount and date of the loan contract, the schedule of instalment payments or a description thereof, the nature of the security, if any, for the loan, the name and address of one of the borrowers and of the licensee, and the agreed rate of charge; and if charges are precomputed and added to the principal of the loan the statement shall also show the amount of the note and the principal amount of the loan and shall contain a copy of paragraph (a) of subdivision 4 of section 56.13. A copy of the loan contract may be delivered in lieu of a statement if it discloses the required information;

Give to the borrower a plain and complete receipt for all payments made on account of any loan wherein charges are computed and paid on unpaid principal balances for the time actually outstanding, at the time the payments are made, specifying the amount applied to charges and the amount, if any, applied to principal, and stating the unpaid principal balance, if any, of the loan; give to the borrower a receipt for all payments made in cash on account of any loan wherein precom-

puted charges have been added to the principal of the loan specifying the amount of the payment applied to principal and charges combined, the amount applied to default or extension charges, if any, and stating the unpaid balance, if any, of the precomputed loan contract;

Permit payment to be made in advance in any amount on any contract of loan at any time, but the licensee may apply such payment first to all charges in full at the agreed rate up to the date of the payment;

Upon repayment of the loan in full, mark indelibly every obligation and security signed by the borrower with the word "Paid" or "Canceled," and release any mortgage, restore any pledge, and cancel and return any note, and any assignment given to the licensee *within 20 days after such repayment;*

Display prominently in each licensed place of business a full and accurate schedule, to be approved by the commissioner, of the charges to be made and the method of computing the same.

Show in the loan contract or statement of loan the rate or rates of charge on which the charge in the contract is based, expressed in terms of rate or rates per annum. Such rate expression shall be printed in at least 8 point type on the loan statement or copy of the loan contract given to the borrower.

Sec. 10. Minnesota Statutes 1957, Section 56.15, is amended to read:

56.15 Limitation on amount. No licensee shall, directly, or indirectly, charge, contract for, or receive any interest, discount, or consideration greater than the lender would be permitted by law to charge if he were not a licensee hereunder upon the loan, use or forbearance of money, goods, or things in action, or upon the loan, use or sale of credit, of the amount or value of more than \$600. The foregoing prohibition shall also apply to any licensee who permits any person, as borrower, or otherwise, to owe, directly or contingently, or both, to the licensee at any time a sum of more than \$600 for principal.

Sec. 11. Minnesota Statutes 1957, Section 56.16, is amended to read:

56.16 Overages deemed interest. The payment of \$600 or less in money, credit, goods, or things in action, as consideration for any sale or assignment of, or order for, the payment of wages, salary, commissions, or other compensation for

services, whether earned or to be earned, shall, for the purposes of regulation under this chapter, be deemed a loan secured by the assignment, and the amount by which the assigned compensation exceeds the amount of the consideration actually paid shall, for the purposes of regulation under this chapter, be deemed interest or charges upon the loan from the date of the payment to the date the compensation is payable. This transaction shall be governed by, and subject to, the provisions of this chapter.

Sec. 12. Minnesota Statutes 1957, Section 56.18, is amended to read:

56.18 Unlicensed persons not to make loans. No person, except as authorized in this chapter, shall, directly or indirectly, charge, contract for, or receive any interest, discount, or consideration greater than the lender would be permitted by law to charge if he were not a licensee hereunder upon the loan, use, or forbearance of money, goods, or things in action, or upon the loan, use, or sale of credit of the amount or value of \$600 or less.

The foregoing prohibition shall apply to any person who, by any device, subterfuge, or pretense, shall charge, contract for, or receive greater interest, consideration, or charges than is authorized by this chapter for any such loan, use or forbearance of money, goods, or things in action, or for any such loan, use or sale of credit.

No loan of the amount or value of \$600 or less for which a greater rate of interest, consideration, or charges than is permitted by this chapter has been charged, contracted for, or received, wherever made, shall be enforced in this state, and every person in anywise participating therein in this state shall be subject to the provisions of this chapter, provided, that the foregoing shall not apply to loans legally made in any state which then has in effect a regulatory small loan law similar in principle to this chapter.

Sec. 13. Minnesota Statutes 1957, Section 56.03, is hereby repealed.

Sec. 14. This act becomes effective June 1, 1959.

Approved April 24, 1959.
